

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

SOLOMON FORTUNE, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

VIVENDI TICKETING US, LLC D/B/A SEE
TICKETS USA, LLC

Defendant.

Civil Action No.:

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

Plaintiff Solomon Fortune brings this action on behalf of himself, and all others similarly situated against Vivendi Ticketing US, LLC d/b/a See Tickets USA, LLC (“Defendant”).

Plaintiff makes the following allegations pursuant to the investigation of his counsel and based upon information and belief, except as to the allegations specifically pertaining to himself, which are based on personal knowledge.

NATURE OF THE ACTION

1. For over two years, Defendant has nickel and dimed event-goers on its website in violation of the New York Arts and Cultural Affairs Law § 25.07(4). Whenever a consumer visits the website SeeTickets.us and selects an event, they are not shown the total cost up-front. Instead, consumers are presented an item price, flanked by bundled, ballooning, and misleading fees. It is only once consumers reach the final checkout screen that they see the total cost, which includes fees that *are higher* than initially quoted. But consumers mustn’t take too much time to scrutinizing the final screen to figure out they’re being duped. Because New York is a busy place, and because the full fees are only flashed *after* consumers selects their tickets, Defendant can plausibly put its customers on a shot clock and tell them they need to decide quick, because

Defendant cannot hold their seats open forever. This cheap trick has enabled Defendant to swindle substantial sums of money from its customers.

2. To stop this hustle, New York passed Arts and Cultural Affairs Law § 25.07(4), which provides that “every operator ... of a place of entertainment ... shall disclose the total cost of the ticket, inclusive of all ancillary fees that must be paid in order to purchase the ticket.” “Such disclosure of the total cost and fees shall be displayed in the ticket listing prior to the ticket being selected for purchase.” *Id.* (emphasis added). “Disclosures of subtotals, fees, charges, and any other component of the total price shall not be false or misleading.” *Id.* (emphasis added). And “[t]he price of the ticket shall not increase during the purchase process.” *Id.* This latest version of the law went into effect August 29, 2022. *See* Exhibit A.

3. For these reasons, Plaintiff seeks relief in this action individually, and on behalf of all other ticket purchasers for Defendant’s events in the state of New York for actual and/or statutory damages, reasonable attorneys’ costs and fees, and injunctive relief under New York Arts and Cultural Affairs Law § 25.33.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(d) because there are more than 100 class members, and the aggregate amount in controversy exceeds \$5,000,000.00, exclusive of interest, fees, and costs, and at least one class member is a citizen of a state different from Defendant. Defendant sold at least 100,000 tickets to events taking place in the state of New York through its website during the applicable class period, and is liable for a minimum of fifty dollars in statutory damages for each ticket sold.

5. This Court has personal jurisdiction over Defendant because Defendant operates a website that sells tickets to events taking place in the state of New York through its website.

6. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to the claims occurred in this District.

PARTIES

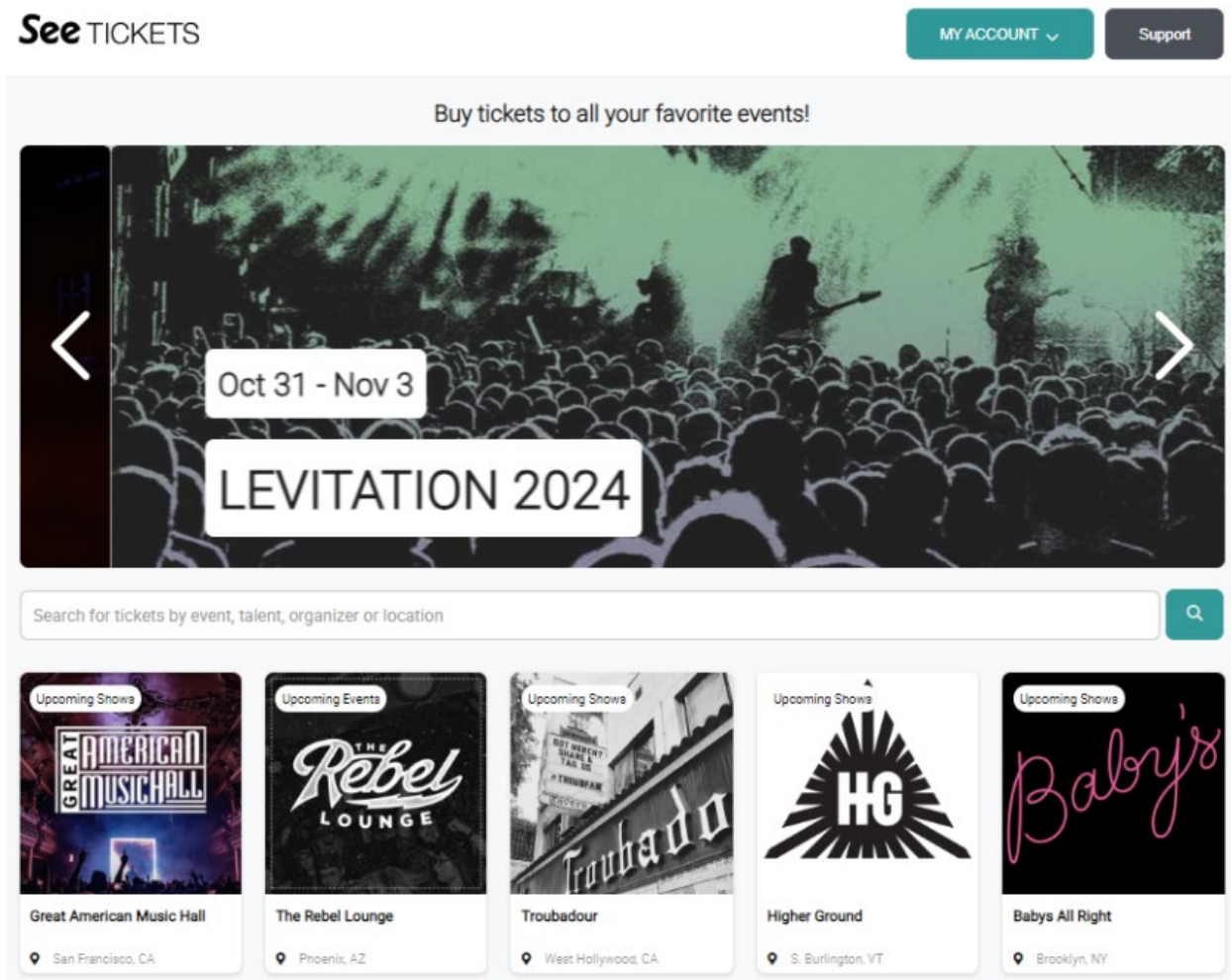
7. Plaintiff Solomon Fortune is an individual consumer who, at all times material hereto, was a citizen and resident of New York, New York. Plaintiff purchased two tickets to events held in Brooklyn, New York. The first ticket was for a DJ set performing at a venue called 3 Dollar Bill, on June 11, 2023. The second ticket was for a dance party with live music at a venue called 9 Bob Note, on October 21, 2023. The tickets were purchased on June 9, 2023, and October 21, 2023, respectively, through Defendant's website, www.SeeTickets.us. The transaction flow process he viewed on Defendant's website was substantially similar as that depicted in Figures 1 through 11 in this complaint.

8. Defendant See Tickets USA, LLC is a Delaware limited liability company with its principal place of business in Los Angeles, CA. Defendant sells event tickets throughout the United States, including in the state of New York. Defendant owns and operates the website <https://www.SeeTickets.us/>.

RELEVANT FACTUAL ALLEGATIONS

9. When an event-goer visits Defendant's website, SeeTickets.us, on the main page, they can search for music, comedy, live performance, and other tickets by event, talent, organizer, or location, including those events taking place in New York. *See* Figure 1, next page.

Figure 1



10. After a user selects an event and particular day, the purchase process begins and users are prompted to select their ticket type and quantity. *See* Figure 2. On this screen, the “total cost” of the ticket is never shown, in violation of New York Arts & Cultural Affairs Law § 25.07(4). *See* Figure 2. Instead, Defendant quotes an item price (“Item Price”) and a “SRV FEE” and “FAC FEE,” neither of which are defined. It is unclear whether those fees are bundled into the quoted item price or tacked onto it later. *See* Figure 2, *next page*. It is also unclear whether these fees are fixed and apply on a per-ticket basis, or apply per-order.

Figure 2

SeeTICKETS

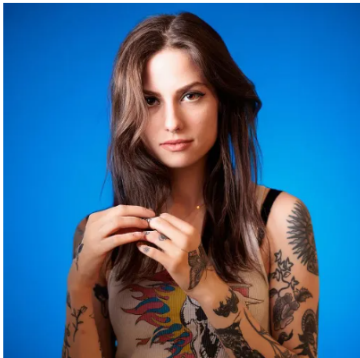
Search for tickets by event, talent, organizer or location

Oct
25

Natalie Cuomo, Sienna Hubert-Ross, Dan LaMorte, & More!
Friday, Oct 25, 2024

f t

The Stand (Upstairs)
New York, NY
Doors: 6:30PM | Show: 7:00PM



Buy Tickets

There is a 6 ticket limit per customer.

TICKET TYPE	ITEM PRICE	SRV FEE (?)	FAC FEE	QTY
General Admission	\$25.00	\$5.03	\$0.00	03

Shipping

Select your shipping method

Print@Home / Mobile - FREE

Event Location

The Stand (Upstairs)
116 E. 16th St, New York, NY, 10003

[Show Map](#)

[View 116 E. 16th St in a larger map](#)

[Directions](#)

Talent

Natalie Cuomo / Sienna Hubert-Ross / Dan LaMorte / Oscar Aydin / Tom McGuire / Jared Waters

Event Details

Guests **MUST** arrive 30 minutes prior to check in to guarantee seating. Seats are subject to be released 15 minutes after the show begins. **ALL LINEUPS SUBJECT TO CHANGE WITHOUT NOTICE**

Please be advised tickets are nonrefundable.
You must check in at the front of the venue with a reservationist before the show. Please arrive **30 minutes** before showtime to guarantee seating, as seats are subject to be released after the show begins.

11. The purpose of these fees is never explained. There is a (?) symbol next to the “SRV FEE” but no symbol next to the “FAC FEE.” A reasonable consumer might believe the “SRV FEE” is a service fee. He or she would be mistaken. If a consumer hovers his or her mouse over the (?) symbol, he or she discovers that the singular “SRV FEE” is actually a Russian nesting doll *for two fees*: the “PROCESSING FEE + CUSTOMER FEE.” See Figure 3, next page.

Figure 3

ITEM PRICE	SRV FEE (?)	FAC FEE	QTY
\$25.	PROCESSING FEE + CUSTOMER FEE		03

12. Even then, the purpose of the fees is never explained. The Customer Fee is especially puzzling, because what consideration does a customer receive in exchange for this fee? Isn't the fee every customer pays the ticket price?

13. *After* a consumer selects a desired quantity of tickets, he or she can click the Checkout button on Figure 2. Depending on the location of the event selected, the relevant button on the ticket selection page may also say "ADD TO CART," and may, or may not, include a "FAC FEE." See Figures 4 and 5 (showing same ticket selection page for different events).

Figure 4

The screenshot displays the 'See TICKETS' website interface. At the top, there is a search bar and navigation links for 'SIGN IN/UP' and 'SUPPORT'. The main header features the event 'Davinia' on October 25th, an 'Opening Act - Léo Dupire', and the venue 'The Cutting Room' in New York, NY, with doors opening at 9:30 PM and the show starting at 10:00 PM.

The main content area is divided into three sections:

- 1. Choose Tickets:** A table lists ticket types with their prices and fees. A note indicates a 10-ticket limit per customer.

TICKET TYPE	ITEM PRICE	SRV FEE	QTY
General Admission (21+)	\$35.00	\$3.14	<input type="text"/>
\$25 food & beverage minimum per person.			
VIP (21+)	\$50.00	\$3.61	<input type="text"/>
\$25 food & beverage minimum per person.			
- 2. Delivery:** A section to 'Select your delivery method' with a dropdown menu showing 'Print@Home / Mobile - FREE'.
- 3. You may also like...:** A recommendation for 'Joey Miserable & the Worms' on 11/01/2024 at 7:00 PM at The Cutting Room, with an 'ADD' button.

On the right side, a 'Cart' summary shows an 'Item Total' of \$0.00 and a 'TOTAL DUE' of \$0.00, with a 'CHECKOUT' button. Below the cart, the 'Talent' (Davinia) and 'Event Location' (The Cutting Room, 44 East 32nd St, New York, NY, 10016) are listed, along with a 'Directions' link and a 'Show Map' button.

At the bottom of the main content area, there is an 'ADD TO CART' button.

Figure 5

Oct
31

Blood Manor - October 31st

Blood Manor
New York, NY
Show: 6:00PM

① Select ticket types, then hit Add to Cart.

1. Choose Tickets

There is a 10 ticket limit per customer.

TICKET TYPE	ITEM PRICE	SRV FEE ①	FAC FEE	QTY
R.I.P. Express	\$65.00	\$3.89	\$3.00	<input type="text"/>
General Admission (6pm - 6:30p)	\$45.00	\$3.10	\$3.00	<input type="text"/>
General Admission (6:30pm - 7pm)	\$45.00	\$3.10	\$3.00	<input type="text"/>
General Admission (7pm - 7:30pm)	\$45.00	\$3.10	\$3.00	<input type="text"/>
General Admission (7:30pm - 8pm)	\$45.00	\$3.10	\$3.00	<input type="text"/>
General Admission (8pm - 8:30pm)	\$45.00	\$3.10	\$3.00	<input type="text"/>
General Admission (8:30pm - 9pm)	\$45.00	\$3.10	\$3.00	<input type="text"/>
General Admission (9pm - 9:30pm)	\$45.00	\$3.10	\$3.00	<input type="text"/>
General Admission (9:30pm - 10:00pm)	\$45.00	\$3.10	\$3.00	<input type="text"/>
General Admission (10pm - 10:30pm)	\$45.00	\$3.10	\$3.00	<input type="text"/>
General Admission (10:30pm - 11pm)	\$45.00	\$3.10	\$3.00	<input type="text"/>
General Admission (11pm - 11:30pm)	\$45.00	\$3.10	\$3.00	<input type="text"/>
General Admission (11:30pm - 12am)	\$45.00	\$3.10	\$3.00	<input type="text"/>

Promo Code

PROMO CODE

2. Delivery

Select your delivery method

Print@Home / Mobile - FREE

3. You may also like...

Blood Manor - October 30th
10/30/2024 7:00 PM
at Blood Manor

Blood Manor - November 1st
11/01/2024 7:00 PM
at Blood Manor

Cart 0

Item Total \$0.00
TOTAL DUE \$0.00

Event Location

Blood Manor [Directions](#)
359 Broadway, New York, NY, 10013
[Show Map](#)

[View 359 Broadway in a larger map](#)

14. Ticket selection pages like the ones depicted in Figures 4 and 5 make the consumer go through one extra step. *After* the consumer clicks “ADD TO CART,” the “CHECKOUT” button on upper right-hand side of the screen is illuminated and displays the total due, but not the total cost of each ticket. To then proceed, they must click “CHECKOUT.”

15. Regardless of the whether the “Ticket Selection Page” has one step (like Figure 2), or two steps (like Figures 4 and 5), they all violate ACAL § 25.07 (4) in the same way. The pages all fail to “disclose the total cost of *the* ticket, inclusive of all ancillary fees ... in the ticket listing prior to the ticket being selected for purchase.” (Emphasis added). In other words, the total cost of each ticket is never disclosed before a consumer first clicks either the “CHECKOUT” button in Figure 2 or the “ADD TO CART” in Figures 4 and 5. Both types of Ticket Selection Pages also fail to “disclose in a clear and conspicuous manner the portion of the ticket price stated in dollars that represents a service charge, or any other fee or surcharge to the purchaser.” ACAL § 25.07(4).

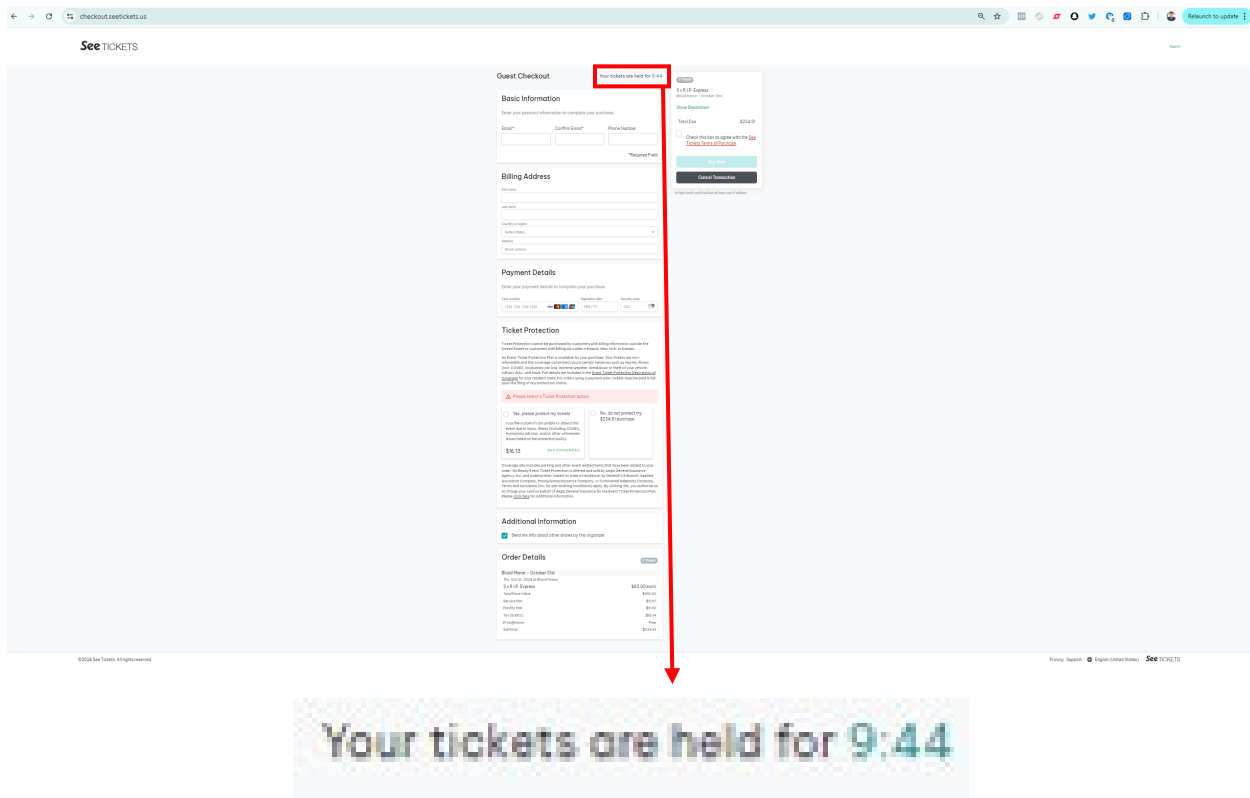
16. After the consumer clicks the “CHECKOUT” button, Defendant interrupts the purchase flow by prompting the consumer to either sign in, create an account, or checkout as a guest. *See* Figure 6.

Figure 6

The screenshot shows the See Tickets website interface. At the top, there is a navigation bar with the See Tickets logo, a search bar, and links for SIGN IN/UP and SUPPORT. Below the navigation bar is a large banner with the text "SIGN IN OR CREATE AN ACCOUNT" and a subtext "Purchase tickets, create events, and connect with your friends and customers." Below the banner are three buttons: "SIGN IN WITH SEE TICKETS", "CREATE ACCOUNT", and "CHECKOUT AS GUEST". Below these buttons are input fields for "Email Address" and "Password". At the bottom of the form is a "CONTINUE" button, a "Remember me" checkbox, and a "Forgot Password?" link.

17. After a consumer completes signing in or checking out as a guest, they are taken to the final payment page. At the very top of the page, a ten-minute countdown timer begins. On a full-size computer screen with standard 1920 x 1080 resolution at 100% zoom, the page is too large to see in one window and requires scrolling. Figure 7, below, shows the page on a full-size computer screen with 1920 x 1080 resolution at 50% zoom.

Figure 7



18. Figures 8 and 9, next page, show the page at 100% resolution. A breakdown of charges is not shown on the top of the screen, only the total due. *See* Figure 8. A breakdown of charges is only be seen by scrolling to the bottom of the page. *See* Figure 9. Significantly, a consumer is *not* required to scroll to bottom of the screen and see the breakdown of charges before completing the transaction. Instead, the “Buy Now” button on the top of the screen becomes

illuminated once a consumer completes filling in the basic information, billing address, payment details, and ticket protection forms above.

Figure 8

Guest Checkout Your tickets are held for 3:39

Basic Information
Enter your personal information to complete your purchase.

Email* Confirm Email* Phone Number

*Required Field

Billing Address

First name
Last name
Country or region
United States
Address
Street address

Payment Details
Enter your payment details to complete your purchase.

Card number Expiration date Security code

1234 1234 1234 1234 MM / YY CVC

Ticket Protection

Ticket Protection cannot be purchased by customers with billing information outside the United States or customers with billing zip codes in Hawaii, New York, or Kansas.
An Event Ticket Protection Plan is available for your purchase. Your tickets are non-refundable and this coverage can protect you in certain instances such as injury, illness (incl. COVID), involuntary job loss, extreme weather, breakdown or theft of your vehicle, military duty, and more. Full details are included in the [Event Ticket Protection Description of Coverage](#) for your resident state. For orders using a payment plan, tickets must be paid in full upon the filing of any protection claims.

3 Tickets
3 x R.I.P. Express
Blood Manor - October 31st
Show Breakdown
Total Due \$234.81
Check this box to agree with the [See Tickets Terms of Purchase](#).
Buy Now
Cancel Transaction

Figure 9

United States or customers with billing zip codes in Hawaii, New York, or Kansas.
An Event Ticket Protection Plan is available for your purchase. Your tickets are non-refundable and this coverage can protect you in certain instances such as injury, illness (incl. COVID), involuntary job loss, extreme weather, breakdown or theft of your vehicle, military duty, and more. Full details are included in the [Event Ticket Protection Description of Coverage](#) for your resident state. For orders using a payment plan, tickets must be paid in full upon the filing of any protection claims.

Please select a Ticket Protection option

☐ Yes, please protect my tickets
I can file a claim if I am unable to attend this event due to injury, illness (including COVID), involuntary job loss, and/or other unforeseen issues listed on the protection policy.
\$16.13 RECOMMENDED

☐ No, do not protect my \$234.81 purchase.

Coverage also includes parking and other event related items that have been added to your order. Go Ready Event Ticket Protection is offered and sold by Aegis General Insurance Agency, Inc. and underwritten, based on state of residence, by General US Branch, Applied Assurance Company, Pennsylvania Insurance Company, or Continental Indemnity Company. Terms and exclusions (inc. for pre-existing conditions) apply. By clicking Yes, you authorize us to charge your card on behalf of Aegis General Insurance for the Event Ticket Protection Plan. Please [click here](#) for additional information.

Additional Information

☒ Send me info about other shows by this organizer

Order Details

Blood Manor - October 31st
Thu, Oct 31, 2024 at Blood Manor
3 x R.I.P. Express \$66.00 each
Total Face Value \$195.00
Service Fee \$11.67
Facility Fee \$9.00
Tax (8.88%) \$19.14
Print@Home Free
Subtotal \$234.81

3 Tickets
3 x R.I.P. Express
Blood Manor - October 31st
Show Breakdown
Total Due \$234.81
Check this box to agree with the [See Tickets Terms of Purchase](#).
Buy Now
Cancel Transaction

©2024 See Tickets. All rights reserved. Privacy Support English (United States) See TICKETS

19. As the Second Circuit cautioned, even when “Internet users may have ... ‘as much time as they need’ to scroll through multiple screens on a webpage, [] there is no reason to assume

that viewers will scroll down to subsequent screens simply because screens are there.” *Specht v. Netscape Commc'ns Corp.*, 306 F.3d 17, 32 (2d Cir. 2002) (Sotomayor, J.). “Only curiosity or dumb luck might bring a user to discover the” breakdown of charges. *Wilson v. Hunnige, Inc.*, 944 F.3d 1212, 1221 (9th Cir. 2019) (*citing Specht*).

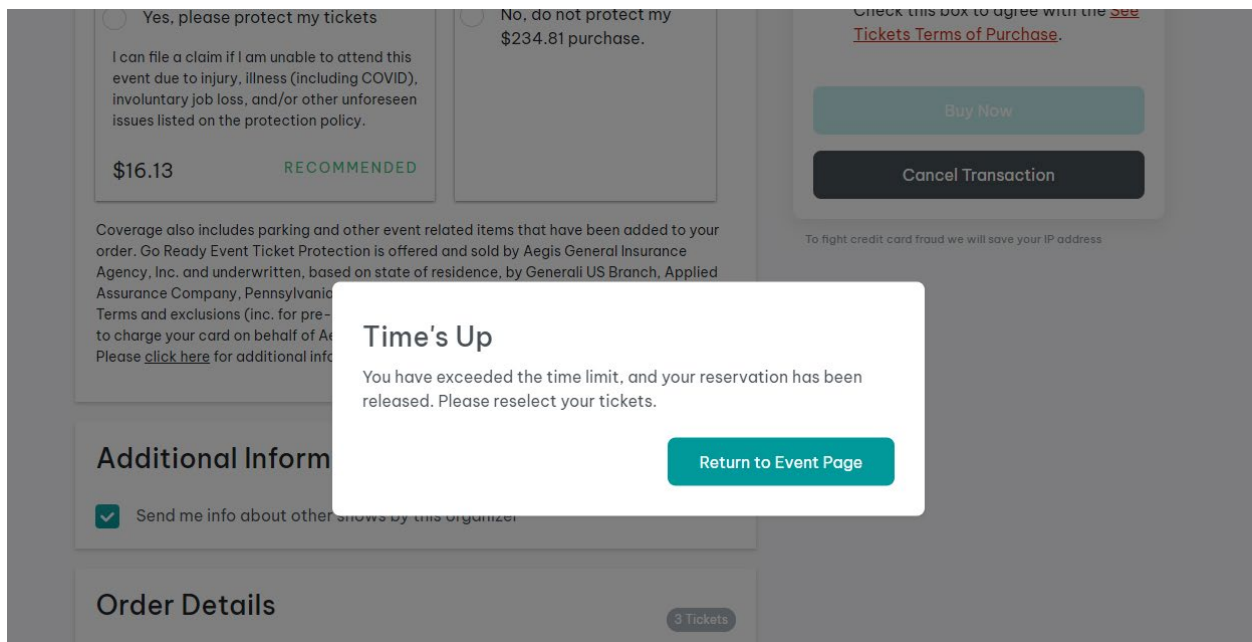
20. If, by happenstance, a consumer purchasing multiple tickets *does* notice the breakdown of charges, they may—or may not—notice that the previously quoted fees have been inflated. Whereas on Figure 5, the SRV and FAC fees were quoted at \$3.89 and \$3.00 respectively (without explanation of whether they would be applied on a per-transaction or per-ticket basis), on the bottom of the payment page on Figure 9, those same fees have now ballooned to \$11.67 and \$9.00, respectively.

1. Choose Tickets			
There is a 10 ticket limit per customer.			
TICKET TYPE	ITEM PRICE	SRV FEE	FAC FEE
R.I.P. Express	\$65.00	\$3.89	\$3.00
<div>Order Details</div> <div> <div>Blood Manor - October 31st</div> <div>Thu, Oct 31, 2024 at Blood Manor</div> <div>3 x R.I.P. Express</div> <div>Total Face Value</div> <div>Service Fee</div> <div>Facility Fee</div> <div>Tax (8.88%)</div> <div>Print@Home</div> <div>SubTotal</div> </div> <div> <div>3 Tickets</div> <div>\$65.00 each</div> <div>\$195.00</div> <div>\$11.67</div> <div>\$9.00</div> <div>\$19.14</div> <div>Free</div> <div>\$234.81</div> </div>			

21. To even notice this discrepancy on the final page, not only would consumers need to scroll to the bottom of the page, but they would also need good memory and an ability for quick mental math. In practice, however, consumers are *not* given, “as much time as they need” to scroll through multiple screens on a webpage,” *Specht*, 306 F.3d at 32, to figure out how they being cheated. As noted, there is a ten-minute countdown timer on the page rushing the consumer to complete the transaction.

22. If the clock runs out, consumers are kicked out, and must start the purchase process all over again. *See* Figure 10, below. Better luck next time.

Figure 10



23. What is more, the checkout flow and the disclosures Defendant presents to consumers is the same whether they proceed via their web browser on a computer, as depicted in Figures 1 through 10, or through a web browser on a phone. *Compare* Figure 5 *with* Figure 11, below (screenshot taken from mobile phone).

Figure 11

See TICKETS SIGN IN/UP Q

Blood Manor - October 31st f t
 Thursday, Oct 31, 2024
 Blood Manor
 New York, NY
 Show: 6:00PM

i Select ticket types, then hit Add to Cart.

1. Choose Tickets

There is a 10 ticket limit per customer.

R.I.P. Express
 \$65.00(price) \$3.89(srv) \$3.00(fac) ▼

General Admission (6pm - 6:30p)
 \$45.00(price) \$3.10(srv) \$3.00(fac) ▼

General Admission (6:30pm - 7pm)
 \$45.00(price) \$3.10(srv) \$3.00(fac) ▼

Cart 3 **234.81** ^

CHECKOUT

24. Defendant might note that for some purchase flows for certain events like those depicted in Figures 4, 5 or 11, (but not Figure 2), where the site requires users to take users to take an *extra step* to checkout by clicking an “Add to Cart” button before clicking, they disclose the total amount due, before the user clicks the “checkout button.” *See, e.g.*, Figure 11 (showing \$234.81 as the total amount due for 3 tickets). However, this misses the mark because, as Senator James Skoufis told another federal court in this District when it was deciding the very first decision under this newly-enacted law, the purpose of ACAL § 25.07(4) was to ensure that “the first price you see for a ticket should be the price you pay for a ticket. That was the unmistakable objective broadcast by my Office, which correspondingly required removing all ‘clicks’ and subsequent page views from the purchasing process.” *Charles v. Color Factory*,

Case No. 1:24-cv-00322-JSR, ECF No. 21 at 1-2 (S.D.N.Y. Apr. 5, 2024) (emphasis added).

“Absent this clear understanding, there is no way for an individual to make a conclusion he or she is getting the best value money can buy, which often must be decided quickly due to ... set timeframes during which tickets must be purchased... (e.g. ‘clocks.’)” *Id.* at 2. The Senator also warned: “Instead of easily complying with this enacted provision by its effective date in 2022, many sellers and resellers actively implemented purchasing obstacles that made buyers click through multiple screens, affirmatively toggle on the ‘all-in pricing’ option, or simply do math in their heads before securing their preferred tickets – all of which we vehemently communicated as unsatisfactorily adhering to the statute.” *Id.*

25. Moreover, disclosures of the total cost of the order in the middle of the ticket purchase process, like Figure 11, still violate ACAL § 25.07(4) because they neither (1) “disclose the total cost of the ticket, inclusive of all ancillary fees,” nor (2) do they make such disclosure “in the ticket listing prior to the ticket being selected for purchase.” (Emphasis added). In other words, the total cost of each ticket is never disclosed before a consumer first clicks the “ADD TO CART” in Figures 4 and 5. Worse yet, Figures 4, 5, and 11 all fail to “disclose in a clear and conspicuous manner the portion of the ticket price stated in dollars that represents a service charge, or any other fee or surcharge to the purchaser.” ACAL § 25.07(4).

NEW YORK ARTS & CULTURAL AFFAIRS LAW

26. Effective August 29, 2022, New York enacted Arts & Cultural Affairs Law § 25.07(4), which provides that “any licensee or other ticket reseller, or platform that facilitates the sale or resale of tickets shall disclose the total cost of the ticket, inclusive of all ancillary fees that must be paid in order to purchase the ticket, and disclose in a clear and conspicuous manner the

portion of the ticket price stated in dollars that represents a service charge, or any other fee or surcharge to the purchaser.” *Id.* (emphasis added); *Compare with* Figures 2, 4, and 5. “Such disclosure of the total cost and fees shall be displayed in the ticket listing prior to the ticket being selected for purchase.” *Id.* (emphasis added); *Compare with* Figures 2, 4, 5, and 11. And “[t]he price of the ticket shall not increase during the purchase process.” *Id.*; *Compare with* Figures 2, 4, 5, 8, and 9. “Disclosures of subtotals, fees, charges, and any other component of the total price shall not be false or misleading.” N.Y. Arts & Cult. Aff. Law § 25.07(5); *Compare with* Figures 2, 4, 5, 8, and 9.

27. Shortly after the law was enacted, ticketing websites peppered the State of New York’s Division of Licensing Services with questions about the scope of the law. As explained by the Division of Licensing Services, “the ticket purchasing process begins once a consumer visits a ticket marketplace and first sees a list of seat prices.” *See* N.Y. Dep’t of State, Div. Licens. Servs., *Request for Additional Guidance – New York State Senate Bill S.9461*, attached hereto as Exhibit A, at 1. “From the moment the prospective purchaser assesses the [] ticket lists through the final payment ... there should be no price increases to the purchaser for the ticket itself.” *Id.* “When a prospective purchaser selects a ticket with full disclosure of the ticket price, the purchaser should not then have to search for the total price of the ticket as the purchaser proceeds through the purchasing process, it should continue to be readily available to the purchaser.” *Id.* at 2 (emphasis added).

CLASS ACTION ALLEGATIONS

28. **Nationwide Class:** Plaintiff seeks to represent a class defined as all individuals in the United States who purchased online tickets to any event in New York using Defendant’s

website on or after August 29, 2022. Excluded from the Nationwide Class is any entity in which Defendant has a controlling interest, and officers or directors of Defendant.

29. **New York Subclass:** Plaintiff also seeks to represent a subclass defined as all individuals in the state of New York who purchased electronic tickets to any event in New York using Defendant's website on or after August 29, 2022. Excluded from the New York Subclass is any entity in which Defendant has a controlling interest, and officers or directors of Defendant.

30. Members of the Nationwide Class and New York Subclass are so numerous that their individual joinder herein is impracticable. On information and belief, members of the Nationwide Class and New York Subclass number in the hundreds of thousands.¹ The precise number of Nationwide Class and New York Subclass members and their identities are unknown to Plaintiff at this time but may be determined through discovery. Nationwide Class and New York Subclass members may be notified of the pendency of this action by mail, email, and/or publication through the distribution records of Defendant.

31. Common questions of law and fact exist as to all Nationwide Class and New York Subclass members and predominate over questions affecting only individual Nationwide Class and New York Subclass members. Common legal and factual questions include, but are not limited to: (a) whether Defendant failed to disclose the total cost of the ticket, including all ancillary fees, prior to the tickets being selected for purchase in violation of New York Arts & Cultural Affairs Law § 25.07(4); (b) whether the displayed price of Defendant's tickets increases

¹ According to the website traffic analytics company Similarweb, Defendant's website has received 10.14 million visits in the last three months, with 96.83% of the website traffic coming from the United States. *See* https://pro.similarweb.com/#/digitalsuite/websiteanalysis/overview/website-performance/*/999/3m?webSource=Total&key=seetickets.us. Approximately 5.69% of the United States population resides in the State of New York. So assuming New Yorkers visited Defendant's website in equal proportions to other Americans, then Defendant received over 576,966 visitors from the state of New York during this time period. This is to say nothing of other Americans that live in surrounding states like New Jersey or Connecticut, who may also wish to purchase tickets to see films in New York City or other areas in New York State.

during the purchase process in violation of New York Arts & Cultural Affairs Law § 25.07(4); and (c) whether Defendant was false or misleading in disclosing subtotals, fees, charges, and any other component of the total price in violation of N.Y. Arts & Cult. Aff. Law § 25.07(4). The claims of the named Plaintiff are typical of the claims of the Nationwide Class and New York Subclass in that the named Plaintiff and the Nationwide Class and New York Subclass sustained damages as a result of Defendant's uniform wrongful conduct, based upon Defendant failing to disclose or misleading the total cost of their tickets, including Defendant's various fees, throughout the online ticket purchase process.

32. Plaintiff is an adequate representative of the Nationwide Class and New York Subclass because his interests do not conflict with the interests of the Nationwide Class and New York Subclass members he seeks to represent, he has retained competent counsel experienced in prosecuting class actions, and he intends to prosecute this action vigorously. The interests of Nationwide Class and New York Subclass members will be fairly and adequately protected by Plaintiff and his counsel.

33. The class mechanism is superior to other available means for the fair and efficient adjudication of the claims of Nationwide Class and New York Subclass members. Each individual Nationwide Class and New York Subclass member may lack the resources to undergo the burden and expense of individual prosecution of the complex and extensive litigation necessary to establish Defendant's liability. Individualized litigation increases the delay and expense to all parties and multiplies the burden on the judicial system presented by the complex legal and factual issues of this case. Individualized litigation also presents a potential for inconsistent or contradictory judgments. In contrast, the class action device presents far fewer management difficulties and provides the benefits of single adjudication, economy of scale, and

comprehensive supervision by a single court on the issue of Defendant's liability. Class treatment of the liability issues will ensure that all claims and claimants are before this Court for consistent adjudication of the liability issues.

COUNT I
New York Arts & Cultural Affairs Law § 25.07
(On Behalf Of The Nationwide Class and New York Subclass)

34. Plaintiff repeats the allegations contained in the foregoing paragraphs as if fully set forth herein.

35. Plaintiff brings this claim individually and on behalf of the members of the Nationwide Class and New York Subclass against Defendant.

36. Defendant is a "licensee or other ticket reseller, or platform that facilitates the sale or resale of tickets" to a "place of entertainment," because Defendant owns, operates, or controls the SeeTickets.us website, which is a place where consumers can purchase tickets to a variety of music, comedy, and other live performance events. "'Place of entertainment' means any privately or publicly owned and operated entertainment facility such as a theatre, stadium, arena, racetrack, museum, amusement park, or other place where performances, concerts, exhibits, athletic games or contests are held for which an entry fee is charged." N.Y. Arts & Cult. Aff. Law § 25.03(6) (emphasis added).

37. Defendant violated New York Arts & Cultural Affairs Law § 25.07(4) by failing to disclose the "total cost of the ticket, inclusive of all ancillary fees that must be paid in order to purchase the ticket ... prior to the ticket being for purchase" on the ticket selection screens depicted in Figures 2, 4, 5 and 11 of this Complaint.

38. Moreover, the "disclosure[]" of ... fees, charges, and any other component of the total price" as depicted in Figures 2, 4, 5 and 11 are "false and misleading" because it is unclear

whether the ancillary fees—i.e., the “SRV FEE” and “FAC FEE”—are applied on a per-transaction or per-ticket basis, as depicted in Figures 2, 4, 5, and 11 of this Complaint. It is also unclear whether the “SRV FEE” and “FAC FEE” are included in the displayed price, as depicted in Figures 2, 4, 5, and 11 of this Complaint, or tacked on at the end of the purchase process, as depicted in Figures 8 and 9 of this Complaint.

39. Defendant also violated New York Arts & Cultural Affairs Law § 25.07(4) by increasing the price of its tickets during the purchase process, as depicted in Figures 2, 4, 5, 8, and 9 of this Complaint.

40. Defendant’s per ticket “SRV FEE” and “FAC FEE” are “ancillary fees that must be paid in order to purchase the ticket.” N.Y. Arts & Cult. Aff. Law § 25.07(4).

41. On June 9, 2023, and October 21, 2023, Plaintiff purchased two tickets on Defendant’s website, and was forced to pay Defendant’s \$4.33 and \$4.79 Service Fees. Plaintiff was harmed by paying these unlawfully applied service charges. Because the total cost of the tickets were not disclosed to Plaintiff at the beginning of the purchase process, the resulting service charges that were applied were unlawful pursuant to New York Arts & Cultural Affairs Law § 25.07(4).

42. Plaintiff was also harmed by not having the total cost of his tickets disclosed upfront at the start of the purchase process. By not knowing the total cost of his tickets before Plaintiff selected his tickets for purchase from Defendant, Plaintiff could not shop around for tickets from other ticket sellers like EventBrite, or Tick Pick, just to name a few. As such, Plaintiff had no way of knowing whether he was getting the best deal his money could buy. By hiding its service charges, Defendant was able to reduce price competition and cause consumers like Plaintiff to overpay.

43. Plaintiff and Class members relied on Defendant's false and misleading representations that the cost of the tickets did not include fees in choosing to purchase their tickets.

44. At the time Plaintiff purchased his tickets, he was not aware that Defendant's service charge was unlawful under the New York Arts & Cultural Affairs Law. Plaintiff was not browsing websites in search of legal violations and, indeed, had no pre-existing relationship with his counsel prior to purchasing his tickets. Plaintiff was instead browsing Defendant's website because he sincerely intended to purchase tickets, and he did, in fact, purchase those tickets.

45. On behalf of himself and members of the Nationwide Class and New York Subclass, Plaintiff seeks to enjoin the unlawful acts and practices described herein, to recover his actual damages or fifty dollars, whichever is greater, and reasonable attorneys' fees. *See* N.Y. Arts & Cult. Aff. Law § 25.33.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of the members of the Nationwide Class and New York Subclass, prays for judgment as follows:

- (a) For an order certifying the Classes under Rule 23 of the Federal Rules of Civil Procedure and naming Plaintiff as representative of the Classes and Plaintiff's attorneys as Class Counsel to represent the Classes;
- (b) For an order declaring that Defendant's conduct violates the statutes referenced herein;
- (c) For an order finding in favor of Plaintiff and the Classes on all counts asserted herein;

- (d) For compensatory and statutory damages in amounts to be determined by the Court and/or jury;
- (e) For prejudgment interest on all amounts awarded;
- (f) For an order of restitution and all other forms of equitable monetary relief;
- (g) For injunctive relief as pleaded or as the Court may deem proper; and
- (h) For an order awarding Plaintiff and the Classes their reasonable attorneys' fees and expenses and costs of suit.

Dated: November 5, 2024

BURSOR & FISHER, P.A.

By: /s/ Philip L. Fraietta
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